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Official Records

56th plenary meeting
Wednesday, 17 November 2004, 10 a.m.
New York

President: Mr. Ping ..... (Gabon)

In the absence of the President, Mr. Sevilla Somoza (Nicaragua), Vice-President, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 49 (*continued*)

Oceans and the law of the sea

(a) Oceans and the law of the sea

Reports of the Secretary-General (A/59/62, A/59/62/Add.1, A/59/63 and A/59/126)

Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its fifth meeting (A/59/122)

Draft resolution (A/59/L.22)

(b) Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Report of the Secretary-General (A/59/298)

Draft resolution (A/59/L.23)

Mr. Kuzmenkov (Russian Federation) (*spoke in Russian*): The Russian Federation attaches great importance to the General Assembly's consideration of cooperation on oceans and the Law of the Sea. This year marks the tenth anniversary of the entry into force of the 1982 United Nations Convention on the Law of the Sea, which is the basis of contemporary relations among States on the marine environment. We fully concur with the positive statements about the Convention that we have heard today, as it is the key international legal instrument in the area of marine activities, establishing a unified regime for cooperation on marine affairs. It reflects in a just and balanced manner the interests of all States and coordinates the various State activities in the area of the sea. We call on States that have not yet acceded to the Convention to do so in the near future. We are convinced that further development of international maritime law should proceed on the basis of compliance with the regime established by the 1982 Convention.

This year was replete with various events and activities relating to the law of the sea. With respect to the activities of the International Seabed Authority, we are impressed by the progress it made in elaborating draft rules for locating and mining polymetallic sulphides and cobalt-rich ferromanganese crusts. However, we have doubts about the advisability of giving that body special jurisdiction to protect marine biological resources.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

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We believe that it would be very useful to develop international cooperation for the adoption of further measures to strengthen oversight by flag States of vessels sailing under their flag.

We share the hopes expressed by many delegations in connection with the establishment of the United Nations Oceans programme, which is aimed at a better coordination of the activities of organizations dealing with ocean affairs and at preventing the duplication that often arises, given the extensive network of organizations and the vast challenges they face.

The Russian Federation welcomes the application of Brazil — and of Australia too, as we were informed today — to the Commission on the Limits of the Continental Shelf requesting delineation of the limits of their continental shelf. We await with interest the results of the Australian and Brazilian applications to the Commission.

The Russian Federation has also requested the delimitation of the continental shelf for the areas of the Arctic and Pacific Oceans. Currently, the relevant ministries and research institutions of the Russian Federation are working to prepare the additional information required by the Commission, and we are working on resolving bilateral questions that have arisen in connection with the Russian Federation submission.

Given that in the next five years the Commission will receive approximately 10 more such requests, attention should be given to creating the conditions for its smooth and effective functioning, since the Commission's workload is growing considerably.

The Informal Consultative Process on Oceans and the Law of the Sea, whose fifth session took place last spring, has made a major contribution to our discussion. We believe it is important to emphasize that the great potential of the Informal Consultative Process, with the equal participation of governmental experts and representatives of international organizations that deal with this subject, is making it possible to properly resolve complex problems involving cooperation on the world's oceans in order to identify long-term forms of interaction. The Consultative Process should make a specific contribution to the cause of sustainable development. However, we draw attention to counterproductive attempts to expand the mandate of the Informal Consultative Process and give it oversight func monitoring States' compliance with their obl under the 1982 Convention. The General Asse doing its job successfully, as are the Meetings o Parties to the 1982 Convention.

I would like to say a few words ab decisions of the fifty-second session of the Environment Protection Committee of the Inter Maritime Organization (IMO) and about reco particularly sensitive Western European sea ar think it necessary to emphasize that ado regulatory lacunae for particularly sensitive se should not result in the restriction of the leg rights and interests of other States. That ap particular to the principle of freedom of navigat hope that the proposals of the Working Group was established pursuant to the decision Committee for the Protection of the Environment in order to improve the IMO's guidelines to establish these particularly sensit areas, can find answers to those questions, taki account the legitimate interests of all States.

Another important area for interr cooperation on marine affairs is the establishme regular process for a global assessment of the the maritime environment. The first results discussion of that problem have been modest to least, and we cannot find them satisfactory. It is to make an additional effort to ensure prom complete initiation of its work. In that context, w to establish a transparent process with a clear st while avoiding the duplication of functions international organization that already exists f purpose and the imposition of any add untenable financial burdens on States.

One of the key instruments in the a conservation and management of marine resources and fish stocks is the 1995 Agreement Conservation and Management of Straddlin Stocks and Highly Migratory Fish Stocks. The R delegation views with interest the proposal to h early 2006 review conference on compliance w Convention, and we intend to participate activel preparatory process and the conference itself.

In conclusion, I thank the Secretary-Gene the very professional reports that he has subm the General Assembly on this agenda iten Russian Federation commends the draft resolutio

have been prepared on oceans and the law of the sea and on sustainable fisheries (A/59/L.22 and L.23). I am sure that much credit for that should be given to the coordinators. I take this opportunity to convey to them our sincere recognition for the work they have done. We will support the adoption of the draft resolutions before the General Assembly.

Mr. Kendall (Argentina) (*spoke in Spanish*): The Argentine delegation associates itself with a statement made yesterday by the representative of Chile, whose views we share. We wish in particular, as other delegations have done, to highlight the commemoration of the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea, which establishes the basic legal framework for activities carried out in the oceans and seas, and for their sustainable development.

Issues covered by the agenda item on oceans and the law of the sea are multifaceted, complex and of great interest to our country. I shall not go into them in any depth, because Chile in its statement has already done so. However, we do wish to express our thanks to the coordinators of the draft resolutions now before us, Mr. Marcos de Almeida of Brazil and Jennifer McIver of New Zealand on the issue of the law of the sea and oceans and Ms. Holly Koehler of the United States on the issue of sustainable fisheries, for the excellent job that they have done. We are also grateful to the Division for Ocean Affairs and Law of the Sea of the Office of Legal Affairs for their assistance throughout the negotiating process. Negotiating texts of such drafts is a complex and lengthy process in view of the range and scope of the issues covered in them. For this reason, for future negotiations, a calendar of meetings should be planned that would not overlap with those of the Sixth Committee.

Lastly, on the question of sustainable fisheries, we wish to refer briefly to the report of the Secretary-General on sustainable fisheries (A/59/298), which in paragraph 151 speaks of principal gaps in the coverage of existing measures adopted by regional fisheries management organizations.

I would like to make the point in this regard that the gaps identified by the Secretary-General in the report are not jurisdictional in nature as the paragraph seems to imply. These gaps have to do with the absence of any established regional fisheries organization designed to implement conservation measures. When such gaps are identified, we need to take into account the causes behind them, such as unresolved sovereignty disputes.

Mr. Gala López (Cuba) (*spoke in Spanish*): Today on the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea, we are extremely gratified to note that the Convention is still as relevant and valid, and has upheld its universal character and fundamental importance for the maintenance and strengthening of international peace and security, as well as for the sustainable development of oceans and seas.

My delegation places special emphasis on the need to enhance international cooperation among all actors involved in the management of the seas and oceans, including exchange of knowledge and capacity-building, which are aspects of key importance for developing countries. My country, given its geography, has a particular interest in issues relating to the seas and oceans. In spite of the serious economic difficulties that we face, we have striven and are still striving to implement national strategies for the sustainable development and protection of the marine environment in order to ensure the implementation of the Convention in a consistent and effective manner.

The United Nations Convention on the Law of the Sea sets up a sound and universally recognized legal framework, within which all activities affecting the oceans and the seas should be carried out. For this reason, we draw attention to the policies and initiatives of certain States that contravene the Convention, as, for example, the Proliferation Security Initiative relating to weapons of mass destruction. If that Initiative were put into effect, it would, in our opinion, disregard the generally accepted rules concerning the interception of vessels and the legal regime governing the various maritime spaces.

We also wish to point out that any activity of a commercial nature relating to biological diversity in areas beyond national jurisdiction should be governed by the principles established in the Convention, which provides that maritime scientific research in the area should be carried out exclusively for peaceful purposes and for the benefit of humankind as a whole. In this regard, we are happy to see the establishment of an open-ended ad hoc working group responsible for studying issues relating to the conservation and sustainable use of marine biological diversity outside

areas of national jurisdiction, as indicated in the draft resolution A/59/L.22, on which we shall be taking action today.

In conclusion, let me express thanks for the efforts of the coordinators of the two draft resolutions, as well as to the Secretary-General for his report on the oceans and the law of the sea, as well as for the work of the Division of Ocean Affairs and Law of the Sea in this area.

The Acting President: In accordance with Assembly resolution 54/195 of 17 December 1999, I now call on the observer of the International Union for the Conservation of Nature and Natural Resources.

Ms. Kimball (International Union for the Conservation of Nature and Natural Resources): The International Union for the Conservation of Nature and Natural Resources is pleased to join today in celebrating tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea. It is an impressive constitutional document, and, like any such document, it contemplates elaboration and further development. Sustainable ocean management requires it. More than seventy per cent of harvested fish stocks worldwide are fished at or beyond their sustainable limit. As fishers turn to new stocks of species at greater depth, these too are increasingly depleted.

The impact of destructive fishing practices on a wide range of marine species is well-documented, from sea turtles and sea birds to sharks and corals. In deep-sea areas, bottom-trawling has destroyed vital coral communities and thoroughly depleted target fish stocks associated with sea mounts. Extinctions of the many unique species found around sea mounts are already likely. In most cases, regional arrangements for these high seas fisheries still focus narrowly on fishery resources and ignore important habitat and non-target species. There are not even bodies competent to regulate these fisheries in large areas of the world's oceans.

These severe declines and emerging extinctions have a widespread impact on global biodiversity. They also have enormous implications for world food security and human livelihoods. In addition, the realization of future benefits from sustainable use of these resources is seriously undermined.

If we are to maintain the productivity of marine species and ecosystems, we can no longer delay the shift to a more integrated, ecosystem approach to ocean and fisheries management. Precautionary measures are essential. This will be an important charge for the Ad Hoc Open-ended Informal Working Group to be established by the General Assembly. Setting a practical and focused agenda for that Group will be critical.

The General Assembly has now explicitly recognized bottom trawling as a destructive fishing practice and a pressing threat to vulnerable marine ecosystems. The International Union for the Conservation of Nature and Natural Resources (IUCN) regrets that more forceful action could not be agreed to prohibit this destructive fishing practice on an interim basis in international waters. The absence of such short-term measures means further destruction and loss of seabed biodiversity until States and regional bodies can agree on adequate conservation and management measures. IUCN and other conservation organizations will be tracking progress over the next year.

Another urgent need is a global process to monitor and assess the state of the marine environment. For deep-sea biodiversity and ecosystems, the call in the draft resolutions for more research is helpful, but a policy-relevant scientific assessment, based on available information, would establish a baseline for future research and assessment, underscore what is at stake for the international community and expedite agreement on appropriate measures. In view of the delay in establishing a regular global marine assessment, IUCN urges that the Intergovernmental Oceanographic Commission of UNESCO, in collaboration with relevant organizations and in consultation with States, be encouraged to prepare such an assessment as soon as possible.

In the medium term, an ecosystem approach means a significant makeover in most regional fishery management organizations, based on the principles and measures of the United Nations Fish Stocks Agreement and the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations. This should ensure equal treatment for all high-seas fisheries.

For the seabed beyond national jurisdiction, an ecosystem approach means that all activities should be held to the same standards of environmental protection

and conservation — whether minerals development, bottom trawling, or others. It is useful to recall in this respect that the International Seabed Authority's rules require environmental assessment in advance of minerals exploration.

A new challenge this year is seabed genetic resources beyond national jurisdiction. Many representatives have suggested that this issue be addressed in a manner consistent with the principles of the Convention on Biological Diversity and the United Nations Convention on the Law of the Sea. IUCN believes that international cooperation can provide for the conservation and sustainable use of these resources and for equity in their utilization. It can also strengthen collaborative scientific research and build knowledge and capacity for biodiversity conservation. The new Working Group can help ensure adequate factual background preparation as a common starting point for considering options and approaches.

To implement an ecosystem approach, IUCN sees marine protected area networks as a critical tool, including in areas within and beyond national jurisdiction. Beyond national jurisdiction, they have an important role to play in preserving unique and representative deep-sea biodiversity and its biotechnology potential.

On two final points, IUCN urges that the inter-agency Oceans and Coastal Areas Network (UN-Oceans) be given a defined role regarding biodiversity conservation in areas beyond national jurisdiction. It could support the new Working Group in the preparation of policy-relevant scientific assessments. Over the longer term, it could facilitate the development of coherent marine protected area networks.

Secondly, IUCN reiterates its call for a major upgrade in national, regional and global arrangements for compliance with and enforcement of international rules in order to eliminate all those who profit from illegal at-sea activities. A systematic approach is increasingly urgent.

Once again, we commend the excellence of the Secretary-General's comprehensive reports on oceans and fisheries.

Mr. Talbot (Guyana): Guyana attaches great importance to the ongoing debate on oceans and the law of the sea, a debate we consider greatly enriched by the reports of the Secretary-General under this item. We are pleased to participate in the deliberations at the present session, which marks the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea.

I would like to state at the outset that my delegation fully subscribes to the statement made by the Permanent Representative of Barbados on behalf of the Caribbean Community (CARICOM). The intervention I will make today is largely in support of the view expressed in the CARICOM statement at the 54th meeting of the General Assembly that

> "the benefits to be derived from areas to which the principle of the common heritage of mankind applies must be accessible to all mankind and not just limited to the commercial interests that seek to exploit its rich biodiversity for profit".

Law is an instrument of social control that, whether domestic or international, must be adapted to the exigencies of change occurring in the society or system to which it relates, if it is to preserve its relevance and effectiveness. Change being imminent in all forms of human social organization, law norms, far from being immutable and fixed, are always in a state of becoming. The process of change is exemplified, for example, by the scope of domestic jurisdiction today, which has evolved because of the increased preoccupation of the international community with matters that had, hitherto, appertained to the domestic jurisdiction of a State. We may also note that the legal status of the continental shelf itself has emerged in response to scientific and exploitability developments. The list of examples is unending.

The United Nations Convention on the Law of the Sea was correctly characterized by Mr. Hans Corell, former Under-Secretary-General for Legal Affairs, as perhaps the single greatest legal codification achievement of the international community in the twentieth century. But it is evident that the Convention was never intended to be the be all and end all of prescriptions relating to the law of the sea. Not only is internal evidence of this reality contained in the document itself, the actual determination of what was meant by the "common heritage of mankind" was not fixed for all time, but would have to be interpreted flexibly as the related realities manifested themselves or became known to humankind. Prescriptions that are grounded on the state of human knowledge at a given

point in time must inevitably be changed or reinterpreted when the inadequacies and imperfections of that state of knowledge become apparent. We ought not to have opportunistic regimes crafted on such imperfections.

The allocation of marine resources worldwide has a sadly chequered history. The determining factor in such allocations has until quite recently been the possession of naval power and national wealth. The greater the complement in each of these categories, the larger the volume of marine resources accruing to the State or Power involved.

Perhaps the major effect of the United Nations Convention on the Law of the Sea was to effectuate a more equitable distribution of marine resources worldwide. The extension of the territorial sea, the creation of the exclusive economic zone, the essentially declaratory codification of the rules governing the continental shelf, and the establishment of the common heritage of mankind encompassing the seabed and the subsoil in areas beyond the limits of national jurisdiction have largely eliminated the earlier mode of resource allocation in marine affairs.

Further, it seems clear that the contemporary understanding of the seabed and its resources beyond the limits of national jurisdiction is radically at variance with what that understanding was at the time of the Third United Nations Convention on the Law of the Sea. And it is reasonable to infer from that manifest reality that the scope and range of the Convention with respect to the definition of the common heritage of mankind would have been more inclusive, had the original negotiators known what we know today. It all has to do, in our view, with exploitability — with developments in science that expand, for the community, accessibility to valuable resources that were unknown earlier but are known or at least partially known now.

Guyana believes that the international community should not be imprisoned by an interpretation of a treaty that derives from an incomplete understanding of reality. Rather, it is our view that the community should proceed by analogical reasoning to adapt current regimes to new circumstances and understandings as necessary in order to provide a more complete comprehension of reality; and we believe there is abundant precedent for this manner of proceeding in international law. The Vienna Convention on the Law of Treaties contains the concept of clausula rebus sic stantibus — whereby provisions of a treaty may be nullified if the present circumstances are such that, had they been known at the time of the original negotiations, that particular treaty project would never have been concluded.

Guyana is not for a moment suggesting that the towering accomplishment of the international community that is embodied in the United Nations Convention on the Law of the Sea be destroyed or in any way weakened. Rather, our suggestion is that we should craft our interpretations of the common heritage of mankind so as to enable us to capture its entire present signification — a signification that has been transformed by a new reality which, had that really been known at the time of the initial negotiations leading up to the Convention, would presumably have lead to a clearer result.

It is appropriate that we remind ourselves that all law is concerned with the protection of particular interests, which change over time in response to changes in the distribution of political power within a given entity or system. It would, therefore, inevitably follow that the greater the number of interests protected, the greater the legitimacy of the prevailing protective arrangements.

In this regard, the law of the sea arrangements which pre-dated the Convention lost much of their legitimacy with decolonization and the emergence of a large number of new States possessing new interests that had to be taken into account by the international legal system. It is partly because of this emergence that we have seen major changes introduced into international law, including changes in the law of the sea, which are reflected in the Convention.

Guyana considers that inadvertent omissions from the contemporary consensus that constitutes the law of the sea should not, as we craft solutions for new situations not previously anticipated, cause us to regress as a result of actions which ignore the underlying spirit and intended purpose of the Convention. In this regard, it would appear that the environmental protection conventions are instructive, and in this connection, I refer particularly to what are termed "framework conventions", in which present gaps or insufficiencies in human knowledge are frankly acknowledged, while some prescriptions in such conventions are being filled in as the relevant

knowledge pertaining to those areas is developed. We submit that it would be helpful to the contemporary discussion of the law of the sea if the international community were to view the Convention as itself being, at least partially, a "framework convention", and if we were to proceed to deal with lacunae and larger associated problems that might emerge in the spirit of equity and fairness that undergirds the Convention, and in which the concept of the common heritage of mankind, as it relates to the law of the sea, was born. Guyana believes that to proceed otherwise would be to take a step backwards, since this would restore the stratification in marine resource allocation that we thought had already been rejected.

The magnitude of a State's power and resources should not alone determine the complement of marine resources allocated to that State. Rather, it is Guyana's view that the only just manner of proceeding is the equitable allocation of marine resources.

The Acting President: In accordance with General Assembly resolution 51/6 of 24 October 1996, I now call on His Excellency Mr. Satya Nandan, Secretary-General of the International Seabed Authority.

Mr. Nandan (International Seabed Authority): Ten years since the entry into force of the United Nations Convention on the Law of the Sea (UNCLOS) is a good time to assess its contributions to peace and good order in the oceans. Unfortunately, in the short time available to address this Assembly, it is difficult to do such an assessment in any detail.

It would be fair to say that, overall, the Convention has been a remarkable success. The United Nations can feel justly proud of this great achievement. Because of the outstanding success of the Convention, the law of the sea is generally taken for granted, with little thought given to its complex and multifaceted nature and the way in which it has carefully balanced and woven together competing uses and claims. Nor is the fact that the Convention continues to make an immense contribution to global peace and security adequately appreciated.

The achievements of the Convention are many. The Convention has provided stability and certainty in the international law of the sea. By defining the rights and duties of States, it has provided the basis for the conduct of relations between and among States on maritime issues. It has provided a sound legal framework for States to conduct activities in the oceans. The comprehensive report of the Secretary-General, prepared so ably by the Division for Ocean Affairs and the Law of the Sea, not only demonstrates the diversity of oceans-related issues, but also illustrates clearly that the Convention is widely seen by States, international organizations and judicial bodies as the primary source of international law of the sea. This is further reflected in the consistency with which the Convention is applied in State practice.

Where the international community has not succeeded, however, is in the discharge of the responsibilities assumed by States under the Convention. As the two draft resolutions before the Assembly demonstrate, the international community cannot feel satisfied that its efforts in ocean governance have been successful. States need to develop management strategies that balance sound ecological practices with economic needs, and adopt an ecosystem approach in order to ensure long-term sustainable use of the oceans and their resources. For this to be achieved there is a need for capacity-building with strong emphasis placed on promoting scientific and environmental literacy. Knowledge will produce informed decision makers and promote ethical stewardship of the seas and oceans.

This year is also the tenth anniversary of the establishment of the International Seabed Authority, which came into existence upon the entry into force of the Convention. The Authority celebrated this event in May of this year during its regular session by holding a two-day commemorative session that was addressed by the President of the Assembly, the Secretary-General of the Authority, the Prime Minister of Jamaica, the Secretary-General of the United Nations through the then Acting Legal Counsel, the President of the Tribunal for the Law of the Sea and the Chairman of the Preparatory Commission. Messages were also received from the President of the third United Nations Conference on the Law of the Sea and the first Chairman of the Preparatory Commission, and statements were made by the chairmen of the regional groups. Two panel discussions were held on the achievements of the Authority in its first 10 years and on its future direction. This was followed by scientific presentations on the various mineral resources in the deep seabed and on the marine environment in which they are found. The annual report of the Secretary-General of the Authority (ISBA/10/A/3) this year

contains a review of the Authority's work and development over the past 10 years. I recommend it to those who would like to know more about the functioning of the Authority.

I wish to take this opportunity to thank the member States of the Authority that for the past ten years have supported and guided its development. I also wish to express my appreciation for the many encouraging remarks made by delegations in this Assembly on the work of the Authority. I believe this to be a positive indication of the commitment of member States to see the Authority fulfil its responsibilities in accordance with the 1982 United Nations Convention on the Law of the Sea and the 1994 Agreement relating to the Implementation of Part XI of the Convention. I also wish to acknowledge with gratitude the kind remarks made by delegations upon my re-election as Secretary-General.

Last year, I informed the Assembly that the Authority was about to adopt a three-year programme of work. This was done at the tenth session. The substantive work programme of the Authority is based on the provisions of the Convention and the Agreement, in particular section 1, paragraph 5, of the annex to the Agreement. The work of the Authority has progressively become more scientific and technical. It is based largely on marine scientific research in the deep ocean and on the need to develop a better understanding of the deep ocean environment. Indeed, one of the basic responsibilities of the Authority under the Convention is to promote and encourage marine scientific research in the deep seabed and to disseminate the results of such research. The Authority is also mandated to ensure effective protection of the marine environment from harmful effects which may arise from activities in the deep seabed. The Authority has attempted to carry out its mandates in two ways.

The first is by holding technical workshops which bring together internationally recognized scientists, experts, researchers, contractors for exploration, representatives of the offshore mining industry and representatives of Member States. The most recent workshop, held in September this year, adopted recommendations on the establishment of environmental baselines and monitoring programmes for polymetallic sulphides and cobalt crusts. The recommendations from this workshop will be presented to the Legal and Technical Commission of the Authority for its consideration and adoption.

Secondly, the Authority promotes marine scientific research through selected scientific research programmes being undertaken by international scientists. The Authority is currently associated with what is known as the Kaplan project, which is designed to measure biodiversity, species range and gene flow in the Clarion-Clipperton Zone in the North-East Pacific. This is the region for which the Authority has already issued six exploration contracts. The information gained from this project will be used to determine the potential risks for marine life as a result of mining for manganese nodules.

The first set of detailed results and analyses from this project should be available by the summer of 2005. The outputs will include a database of some of the important species found in the Clarion-Clipperton Zone, including their genetic sequences. This will, in fact, be the first project of its kind to assess the genetic resources in the nodule province. Information on the biodiversity derived from this project will be superimposed on the geological model which the Authority is developing for that zone. The model will considerably enhance our knowledge of the geological and biological environment of that area.

The Authority will also be promoting two programmes within the Census of Marine Life which are directly relevant to its work. These are the work being undertaken by the Chemosynthetic Ecosystems Group (ChEss) and the Seamounts Group (CenSeam). Both of these cover the environments where polymetallic sulphides and cobalt-rich crusts are found. The Council of the Authority is currently considering regulations for exploration for those resources.

Polymetallic sulphides are found at hydrothermal vent sites, which are areas of the seabed where mineral-rich super-heated water emerges from the seabed, producing mineral chimneys that support a vast diversity of life. Cobalt-rich crusts, on the other hand, are usually found on seamounts, which often support fauna specific to them — meaning that the species are not found elsewhere. The vulnerability of seamount communities and the concern for their protection has clearly been highlighted in recent years through the discussions regarding destructive fishing methods on seamounts. This issue was a subject of discussion at the United Nations Informal Consultative Process and is also referred to in the two draft resolutions before the General Assembly. For the Authority, it is important to understand the ecology of seamounts and

the nature of the fauna and flora that exist there and to determine what measures need to be taken in order to minimize any harmful effects from mining-related activities.

It is a matter of grave concern that, while the Authority is in the process of developing guidelines for the application of precautionary measures for the protection of the ecosystem on the seamounts on a scientific basis, there are fishing activities which, through the use of certain types of gear, are indiscriminately destroying the very same ecosystem.

Marine scientific research is an essential tool for ocean governance. It increases knowledge of the ocean environment and enables us to take sound management decisions concerning its resources. For the Authority, such knowledge is important to ensure that the regulations and guidelines it adopts are scientifically sound. Despite the progress that has been made in marine scientific research in recent years, the fact is that our knowledge of the oceans remains insignificant. We know more about the surface of the moon than about the ocean on which life on earth depends.

Concern about the lack of scientific information in the development of effective ocean policy was recently echoed in the introductory statement of the Chairman of the United States Commission on Ocean Policy when he introduced the Commission's final report, entitled *Ocean Blueprint for the Twenty-First Century*, to the United States Senate Committee on Commerce, Science and Transportation. He stated that

> "An effective national ocean policy should be based on unbiased, credible, and up-to-date scientific information. Unfortunately, the oceans remain one of the least explored and most poorly understood environments on the planet, despite some tantalizing discoveries over the last century."

The need for a better knowledge of the ocean environment is self-evident. One need only read the draft resolutions before the Assembly to recognize that the number of actions that States are being asked to take can be implemented effectively only if States have sound scientific knowledge of the marine environment. It is for that reason that last year in my statement I urged the General Assembly to adopt a declaration in support of enhanced efforts in marine scientific research through national, regional and global programmes in order to generate new impetus in marine scientific research. Such a declaration will have no financial implications for the United Nations. On the other hand, it will serve to encourage Governments, intergovernmental organizations, non-governmental organizations, charitable foundations and scientific institutions to give high priority to marine scientific research, from which all of us can benefit.

The two rather comprehensive draft resolutions before the Assembly, contained in documents A/59/L.22 and A/59/L.23, refer to a variety of subject areas, and it is difficult to cover them all. I would like to congratulate the coordinators of the draft resolutions and others who assisted them for highlighting the many important issues pertaining to ocean governance. I wish to express my appreciation for the references to the Authority and its work and also to the need for timely contributions by Member States. I would like to inform the Assembly that the eleventh regular session of the Authority will be held from 15 to 26 August 2005. This will be preceded by a one-week meeting of the Legal and Technical Commission. I might mention that there is a good prospect that the Authority may receive a new application for a nodule exploration licence by the next session.

I would also like to renew the request for Member States to contribute to the Authority's voluntary fund to facilitate the participation of developing country members of the Legal and Technical Commission and the Finance Committee in the work of those bodies.

Since I had the honour to serve as the Chairman of the United Nations Conference on Highly Migratory Fish Stocks and Straddling Fish Stocks and was the architect of the United Nations Fish Stocks Agreement (UNSFA), which was adopted in 1995, I cannot resist making a few comments concerning the draft resolution contained in document A/59/L.23 on sustainable fisheries. I would first like to express satisfaction at the entry into force of the Fish Stocks Agreement and the adoption of its provisions in a number of regional fisheries organizations — in particular through the new Western and Central Pacific Ocean Fish Stocks Convention, which entered into force in June 2004, and the South-East Atlantic Fisheries Organization Convention, which entered into force in 2003.

As stated in the draft resolution, under the terms of the UNFSA, a review conference is scheduled for

2006. In the light of a number of issues raised in the draft resolution with respect to high seas fisheries, the review conference might be an appropriate forum to consider a number of those issues. It may be useful to begin to consider how they can be addressed.

Perhaps the first point to make is that the UNFSA is a strong and far-reaching instrument. It may not be perfect, but it is by far the most comprehensive agreement relating to the conservation and management of fish stocks.

Nevertheless, it is to be acknowledged that until the Agreement enjoys universal participation and States fully comply with their obligations — in particular those contained in article 8 of the Agreement in relation to organizations — unregulated high seas fishing, that is fishing by non-members outside the rules set by regional fisheries management organizations (RFMOs), will remain a considerable problem. The 1995 United Nations Fish Stocks Agreement is indisputably a giant step in the direction of sustainable use of fish resources, but it cannot attain its full potential unless the most important coastal States, fishing States and flag States are parties to it.

A key strategy must be to secure broader participation in the Agreement. The need for that has been emphasized repeatedly in numerous General Assembly resolutions and in other international bodies. In the long term, it is important that all parties to the 1982 United Nations Convention on the Law of the Sea become parties to the Agreement, so that, as originally intended, there would be a seamless connection between the provisions of the Convention and the provisions of the Agreement. This is likely to take time, but in the short term, it is especially important that all high seas fishing nations and actual and potential flag States become parties to the Agreement as soon as possible so that the opportunities for "free riding" can be minimized and as many high seas actors as possible are bound by the existing web of legal obligations.

Special efforts should be made to bring specific countries into the Fish Stocks Agreement. These might include countries that are already members of two or more regional arrangements — thus having a clear fishing interest — but are not yet parties to the Agreement, and those countries that are significant flag States of high seas fishing vessels. It is interesting to note that of the 14 open-registry countries that had registered the largest number of fishing vessels between 1999 and 2003, 10 are not parties to the Agreement and three of those countries are not even parties to the 1982 Convention. In other words, they willingly flag fishing vessels but are not prepared to commit to the basic obligations of flag States that are enshrined in the Convention and accepted by the overwhelming majority of the international community — 145 States Members of the United Nations are parties to the Convention. Yet all of those countries are present in the General Assembly and are likely to participate in the adoption of the present draft resolutions.

The second key point to make is that experience has shown that the Fish Stocks Agreement may not have gone far enough. There are critical gaps in its coverage which need to be dealt with. For example, it is seen as limited in application to straddling fish stocks and highly migratory fish stocks. Some consider that it does not cover sufficiently the problem of discrete high seas stocks, including deep-sea fisheries. Although that difficulty may be more a perception than a reality, it is leading to the undesirable situation in which piecemeal and sometimes rather radical proposals are being promoted to deal with specific problems, such as proposals for blanket prohibitions on certain fishing practices. Surely it would be much better if those problems were dealt with in accordance with the same principles that apply to straddling and highly migratory fish stocks, and under the same sort of comprehensive management framework that the Agreement encourages. High-seas fishing is a global phenomenon, and there needs to be a comprehensive global management framework rather than piecemeal gap-filling. Serious consideration should therefore be given to expanding the scope of application of the Agreement so as to include all fish stocks in the high seas.

The third major issue with regard to the Fish Stocks Agreement is that, although it accords a key role to regional fisheries management organizations (RFMOs), designed to lead eventually to a situation where high-seas fishing can be engaged in only by vessels flying the flags of States that are members of RFMOs or that cooperate with them, unfortunately, what we have seen is that this is not enough by itself. Regional fisheries management organizations' coverage is incomplete; some lack capacity, and in all of them, participation is not sufficiently broad to

ensure compliance with conservation and management measures and eliminate the problem of free riders. The irresistible conclusion is that it is not enough to rely on a disparate and relatively inefficient and incomplete network of RFMOs to implement the Agreement. It is likely that increased oversight at the global level can significantly reinforce regional and national measures to effectively implement the Agreement. That would promote a more systemic approach to improving the conformity of conservation and management measures with the Agreement. At the very least, RFMOs can and should be improved. Their mandate should also be expanded to cover all fish stocks in the area of their competence, including those found on seamounts.

The fourth major problem is that neither the Fish Stocks Agreement nor any of the RFMOs are equipped to deal with the problem of allocation of high seas resources. The high seas is one of the few remaining global commons, others being the atmosphere and biosphere. Despite the increasing qualifications that have been placed on the exercise of high seas freedoms through the widening and deepening of the obligations placed upon States by the Agreement, the current international regime governing access to high seas resources remains the traditional rule of capture. Left unconstrained, we know that the end result of States exercising the unrestricted right to fish on the high seas is the "tragedy of the commons".

A number of international initiatives have begun to look in more detail at those problems. The Food and Agriculture Organization, for example, continues to provide valuable technical advice and support to RFMOs and will hold a ministerial session of its Committee on Fisheries in 2005. The Organization for Economic Cooperation and Development's Committee on Fisheries is also expected shortly to produce a major piece of work on the economic incentives for illegal, unreported and unregulated fishing (IUU fishing) based on exhaustive analysis. We can also look forward to the outcomes of the novel initiative taken by a group of fisheries ministers from developed and developing countries to establish a ministerial task force on high-seas fishing to try to identify practical measures that will have a measurable impact on the problems of IUU fishing. Together, the results of those processes, if applied and implemented by States and fishing entities, should help to show the way forward.

I would like to conclude by restating that the 1982 United Nations Convention on the Law of the Sea and its related instruments provide a sound legal foundation for ocean governance but clearly there is much that needs to be done by the international community, individually and collectively, to meet the demands of responsible stewardship of the oceans and its resources.

The Acting President: In accordance with General Assembly resolution 51/204 of 17 December 1996, I now call on Mr. Dolliver Nelson, President of the International Tribunal for the Law of the Sea.

Mr. Nelson (International Tribunal for the Law of the Sea): It is an honour for me, on behalf of the International Tribunal for the Law of the Sea, to address this fifty-ninth session of the General Assembly on the occasion of its annual examination of the item "Oceans and the law of the sea", and especially on the occasion of the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea. I extend to the President of the General Assembly my personal congratulations and those of the Tribunal, on his election.

I would like to take this opportunity to report to the General Assembly on the developments that have taken place with respect to the Tribunal since the last meeting of the Assembly on this agenda item, held in November 2003. I am particularly pleased to inform the Assembly that the negotiations with the German authorities on the Headquarters Agreement between the Tribunal and the Federal Republic of Germany came to a successful conclusion. The text of the Agreement should be signed before the end of this year. I wish to place on record our deep gratitude to the Federal Republic of Germany for the excellent cooperation it has extended to the Tribunal in this matter.

In the course of the year, the Tribunal held two sessions: the seventeenth session from 22 March to 2 April 2003, and the eighteenth session from 20 September to 1 October 2003. Those sessions were devoted to legal and judicial matters, as well to administrative and organizational issues related to the discharge of the judicial functions of the Tribunal.

With respect to the judicial work of the Tribunal, I should like to mention that a case is still pending on the docket, the Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean, *Chile/European Community*, which was submitted to a Chamber of the Tribunal. By order dated 16 December 2003, the time

limit for making preliminary objections with respect to the case was extended at the request of the parties until 1 January 2006 to enable them to reach an agreement.

Since my last report to the General Assembly, no new cases have been submitted to the Tribunal. I must however point out, that on several occasions, requests have been addressed to the Registry for information regarding the institution of prompt release proceedings, and, on more than one occasion, cases were not instituted because negotiations been the parties proved successful.

It is certainly a function of the Tribunal to be easily available to parties, a factor which can facilitate the negotiation process between the parties to a dispute. Thus the mere existence of the Tribunal, a standing body, assists States to settle their maritime disputes without resorting to litigation. The Tribunal has dealt with 12 cases during its eight-year existence, in which it has delivered six judgements and 26 orders. This compares favourably with the record of other international courts and tribunals in the initial stages of their existence.

It is gratifying to note that 17 States parties from different regions of the world have been engaged in proceedings before the Tribunal. It should also be remarked — and this is generally agreed — that the Tribunal has rendered its decisions within remarkably short periods. The Tribunal has already made some contribution to the development of international law, with regard to issues such as the nationality of claims, reparation, use of force in law enforcement activities, hot pursuit and the question of the genuine link between the vessel and the flag State.

It can be fairly said that the Tribunal has also developed a coherent jurisprudence in prompt release proceedings under article 292 of the Convention. The cases dealing with a prescription of provisional measures under article 290, paragraph 5, concerned primarily the protection of the marine environment. In those cases the Tribunal emphasized the duty to cooperate, and stressed the importance of exercising prudence and caution when undertaking activities which may have a harmful effect on the marine environment.

In a sense, these decisions can be viewed as helping in the development of international environmental law. In that connection, I would like to thank the sponsors of draft resolution A/59/L.22 for noting the continued and significant contribution of the Tribunal to the peaceful settlement of disputes, in accordance with Part XV of the Convention, and for underlining the important role and authority of the Tribunal concerning the application of the Convention and the agreement relating to the implementation of Part XI of the Convention.

May I recall that out of 145 States parties to the Convention, only 34 have made written declarations relating to the settlement of disputes under article 287 of the Convention, and that 21 States parties have chosen the Tribunal as the means, or one of the means, for the settlement of disputes concerning the interpretation or application of the Convention. It is to be hoped that an increasing number of States will utilize the possibility, offered by article 287 of the Convention, of choosing means for the settlement of disputes concerning the Convention, as is stated in draft resolution A/59/L.23. States may also confer jurisdiction on the Tribunal through international agreements. Seven such multilateral agreements have already been concluded.

It should be noted here that even in the absence of any declaration under article 287 of the Convention, States are obliged to submit their disputes to a procedure entailing binding decisions. By virtue of that provision, States which have not made any declaration are deemed to have accepted arbitration, and arbitration would then be the only procedure binding upon the parties, unless they agree otherwise.

In that regard, I would like to draw attention to the possibility for parties to submit their disputes to a special chamber of the Tribunal in accordance with article 15, paragraph 2, of the Tribunal's Statute. Such a special chamber is an alternative to arbitration and should be of particular interest to possible users, for various reasons. The composition of a special chamber shall be determined by the Tribunal with the approval of the parties. This gives the parties a measure of control over its composition. The parties to a dispute do not have to bear the expenses of the proceedings before the Tribunal. For example, there are no expenses for remuneration of the members of the chamber, including travel; there are no administrative charges; there are no expenses for interpretation. The parties have at their disposal the rules of the Tribunal, which can be applied in a flexible manner. For instance, the parties may propose certain modifications or additions to the rules. They may agree on the time

limits for the filing of pleadings or the number of pleadings or the holding of oral proceedings. It should be noted, however, that the institution of international legal proceedings involves expenses for the States concerned. It is true that, unlike what was said above with respect to arbitral proceedings, the parties to a dispute before the Tribunal do not have to share the financial burden relating to the functioning of the Tribunal, since expenses incurred by the Tribunal in dealing with cases submitted to it are financed by States parties.

Nevertheless, parties need to cover expenses for counsel and advocates representing them, as well as for accommodation in Hamburg. These costs may be burdensome for States — in particular developing States — whenever they are contemplating submitting a case to the Tribunal. In that respect, I wish to draw attention to resolution 55/7, entitled "Oceans and the law of the sea", of 30 October 2000, whereby the General Assembly requested the Secretary-General to establish a voluntary Trust Fund to assist developing states in the settlement of disputes through the Tribunal. Two States have so far made contributions to the Fund. Currently the Fund amounts to $55,000. It is hoped that most States will consider making contributions to this Fund.

I am pleased to report that, on 1 September 2004, Mr. Horst Köhler, President of the Federal Republic of Germany, accompanied by 140 members of the diplomatic corps, was received at the Tribunal. On that occasion I made a statement on the work of the Tribunal, which can be found on the Tribunal web site (www.itlos.org).

I am also glad to report to the General Assembly that, in commemoration of the tenth anniversary of the entry into force of the Convention on the Law of the Sea, a symposium on maritime delimitation took place on the premises of the Tribunal on 25 and 26 September 2004. The event was organized jointly by the International Foundation for the Law of the Sea, the Association internationale du droit de la mer, the Institut du droit économique de la mer of Monaco, the Law of the Sea and Maritime Law Institute of the University of Hamburg, the Federal Maritime and Hydrographical Agency and the Bucerius Law School of Hamburg. More than 150 participants, including a large number of representatives of States, attended the event. The symposium demonstrated the importance of maritime delimitation issues. Clearly these questions continue to attract the interest of practitioners, experts and Government officials. As far as the Tribunal is concerned, it is ready, and possesses the necessary expertise, to deal with cases relating to maritime delimitation.

I should also like to mention that the Tribunal has taken further steps to develop its relationship with other international organizations and bodies. During the current year, the Tribunal has concluded administrative arrangements with the International Labour Office and the Asian-African Legal Consultative Organization.

Since I spoke to the Assembly in November last year, one State has acceded to the Agreement on the Privileges and Immunities of the Tribunal. The Agreement entered into force on 30 December 2001, and to date only 14 States have expressed their consent to be bound by it. In this regard, I would like to refer to General Assembly resolution 58/240 of 23 December 2003, in which the Assembly called upon States that have not done so to consider ratifying or acceding to the Agreement. The Registrar sent notes verbales to States parties in June 2004 making reference to the recommendation of the General Assembly. That recommendation has also been included in the draft resolution this year.

As of 1 November 2004, there was an unpaid balance of assessed contributions to the overall budget of the Tribunal of $2,569,684 for the budgets covering the period from 1996-1997 to 2004. The Tribunal is aware of the difficulties this situation may raise with respect to its functioning. The Registrar will send notes verbales to the States parties concerned in December 2004, reminding them of their outstanding contributions to the budgets of the Tribunal. We are thankful to the sponsors of the draft resolution for incorporating an appeal to States parties in this matter.

I wish to refer to the internship programme of the Tribunal and the grant provided by the Korea International Cooperation Agency (KOICA) for funding the participation of candidates from developing countries in the programme. It gives me pleasure to inform the Assembly that, since the grant was put in place earlier this year, 11 interns from 11 countries have benefited from the KOICA grant. On behalf of the Tribunal, I wish to convey our gratitude to the Korea International Cooperation Agency for this generous contribution.

I take this opportunity to state that the Tribunal continues to seek the moral and material support of the international community. In conclusion, I would like to express my appreciation to the Assembly President and to delegations for having provided me with the opportunity to address this meeting. I would also like to thank the Secretary-General, the Legal Counsel and the Director of the Division for Ocean Affairs and the Law of the Sea for their support. I wish the General Assembly every success in its important deliberations at this session.

The Acting President: We have heard the last speaker in the debate on agenda item 49, sub-items (a) and (b).

We shall now proceed to consider draft resolution A/59/L.22 and draft resolution A/59/L.23, as orally corrected.

Before giving the floor to representatives who wish to speak in explanation of vote or position before action is taken on the draft resolutions, may I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Erciyes (Turkey): With regard to the two draft resolutions before us under agenda item 49, Turkey will vote against the draft resolution contained in document A/59/L.22, entitled "Oceans and the law of the sea". The reason for my delegation's negative vote is that some of the elements contained in the United Nations Convention on the Law of the Sea, which has prevented Turkey from approving the Convention, are once again retained in this year's draft resolution. Turkey supports international efforts to establish a regime of the sea which is based on the principle of equity and which can be acceptable to all States. However, in our opinion, the Convention does not make adequate provision for special geographical situations and, as a consequence, is not able to establish an acceptable balance between conflicting interests. Furthermore, the Convention makes no provision for registering reservations on specific clauses.

Although Turkey agrees with the Convention with regard to its general intent, and with most of its provisions, it is unable to become a party to it because of those serious shortcomings. That being the case, Turkey cannot support the draft resolution, which also calls on States to become parties to the Convention and to harmonize their national legislation with its provisions.

As for the draft resolution on sustainable fisheries, contained in document A/59/L.23, as orally corrected, my delegation would like to state that Turkey is fully committed to the conservation, management and sustainable use of marine living resources, and attaches great importance to regional cooperation to that end. In that context, Turkey supports the draft resolution. However, my delegation wishes to reaffirm once again our position vis-à-vis the United Nations Convention on the Law of the Sea. For the reasons that I have just set out, Turkey is not able to give its consent to certain references to the Convention made in that draft resolution, in particular operative paragraph 2, in which States are called upon to become parties to the Convention. In this respect, Turkey dissociates itself from the consensus on those particular references.

Ms. Núñez de Odremán (Venezuela) (*spoke in Spanish*): My delegation would like to refer to draft resolution A/59/L.22, under agenda item 49, entitled "Oceans and the law of the sea", which is before the Assembly for consideration and on which a vote will shortly be taken.

The delegation of Venezuela wishes once again to underscore its commitment to cooperate with efforts designed to promote coordination on issues relating to oceans in the framework of the negotiations recently concluded, which resulted in the text that will be shortly presented in this Hall.

In that regard, we note that the reasons that have prevented Venezuela from becoming a party to the United Nations Convention on the Law of the Sea remain valid. For that reason, my delegation is not in a position to join States in supporting this draft resolution, since the Bolivarian Republic of Venezuela is not a party to the United Nations Convention on the Law of the Sea of 10 December 1982, and the norms of that Convention do not apply to it under international customary law — except those that the Bolivarian Republic of Venezuela may have explicitly recognized, or may recognize in future, by incorporating them into its domestic legislation.

Against that backdrop, my delegation wishes to reaffirm its historical position vis-à-vis the United Nations Convention on the Law of the Sea. Certain aspects of the document submitted today by the

presidency compel my delegation to abstain in the voting that is to take place shortly.

My delegation wishes also to refer to the draft resolution submitted in this Hall as document A/59/L.23 under agenda item 49 (b), entitled "Sustainable fisheries, including through the Agreement for the implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments", which is before us for consideration.

In that regard, the delegation of Venezuela wishes to underscore its commitment to cooperate with efforts aimed at promoting coordination on issues relating to the question of sustainable fisheries in the context of the negotiations that have recently concluded and which resulted in the text submitted in this Hall.

It is important to note that, at the national level, Venezuela is taking significant steps forward in the area of the conservation and management of marine biological resources and in measures to control the operations of domestic-flagged vessels.

My country has also undertaken cooperative efforts, in the context of regional fisheries management organizations, relating to effective conservation measures to maintain the long-term sustainability of straddling and highly migratory fish stocks. The results of the cooperation that is taking place in those forums have been reflected in the adoption of regulatory resolutions and recommendations covering such stocks.

In that regard, Venezuela has taken part in international fisheries management commissions such as the International Commission for the Conservation of Atlantic Tunas, the Inter-American Tropical Tuna Commission and the negotiations of the Inter-American Convention on the Protection and Conservation of Sea Turtles, of which it is the depositary.

Likewise, our country from the very outset took part in the negotiations on the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region and its Protocol concerning Protected Areas and Wildlife, as well as the Convention on Biological Diversity, which we consider to be a framework instrument for the regulation of conservation and use of biological diversity in all spheres.

Venezuela has provided support to small island developing States in the context of the Western Central Atlantic Fishery Commission, through cooperation and institutional support for the initiatives taken by those countries to develop their fishery administrations. It has also taken part in the formation of working groups designed to study the most important fisheries of the region and in the setting up of a statistical database, at the regional level, to facilitate the elaboration of regional management measures, with the goal being the economic development of those States.

For its part, the Bolivarian Republic of Venezuela, through its Fisheries and Aquaculture Act, which entered into force in November 2001, specifically appealed to domestic-flagged vessels to comply with international measures for the conservation and management of living resources, as specified in article 65 of the Act. That task is expressly entrusted to the National Fisheries Institute under the law.

At the national level, we monitor the operations of domestic-flagged fishing vessels trawling on the high seas through regular reporting to management commissions set up under the aforementioned Act. Ongoing communication with those agencies has made it possible to identify the exact areas of operation of national vessels and the extent of their compliance with established provisions for resource management.

For its part, Venezuela also has taken measures to deal with the problems arising from illegal, unreported and unregulated fishing through periodic reports to commissions on domestic-flagged vessels operating lawfully in international waters or in the jurisdictional waters of other States.

The Fisheries and Aquaculture Act provides for the installation of positioning devices on fishing vessels larger than 30 units of gross tonnage, as well as the use of properly authorized onboard observers, in order to compile the necessary information on fishing activities, in keeping with the Act. That legal instrument also includes sanctions to be applied in case of non-compliance by Venezuelan fishing vessels with conservation and management measures.

As regards fishing capacity, the Government of Venezuela has underscored in various forums its readiness to maintain its holding capacity at current levels. It has also urged other Member States and cooperating countries in the aforementioned

organizations to find points of consensus that will make it possible to work to effectively limit fleet capacity, in keeping with what was agreed in the United Nations Food and Agriculture Organization's International Plan of Action for the Management of Fishing Capacity, in order to ensure the conservation of fishing resources and the sustainable long-term development of fisheries.

With regard to conservation measures to protect ecosystems and the environment, including straddling and highly migratory stocks, I would note that the agreements to which Venezuela is a party contain provisions on the efforts that countries should make to maintain the sustainability of the marine environment, in harmony with the species inhabiting it. With that in mind, the country welcomes such decisions and is working, in the context of its legal framework, to protect the aquatic marine environment and its living resources.

We also consider a top priority the preservation of ecosystems, so that their natural productivity and stability are not recklessly disrupted, ensuring that they can be used in a way that will ensure sustainable fishing.

In that regard, we wish to state that the reasons still exist that have prevented Venezuela from becoming a party to the United Nations Convention on the Law of the Sea, including the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks still exist.

For that reason, my delegation is not in a position to join with States supporting the content of the draft resolution, since the Bolivarian Republic of Venezuela is not a party to the Agreement for the Implementation of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. Nor are the provisions of that Agreement applicable to Venezuela under international customary law, except those that the Bolivarian Republic of Venezuela has explicitly recognized, or may recognize in future, by incorporating this provisions in its domestic legislation.

Having stated this, my delegation wishes to reaffirm the fact that it will not block consensus on the draft resolution before the Assembly. However, it would reaffirm its historical position vis-à-vis the United Nations Convention on the Law of the Sea and its related agreements, since we take the view that certain aspects of the draft resolution compel my delegation to note an explicit reservation regarding that document.

Mr. Llanos (Chile) (*spoke in Spanish*): My delegation wishes to make a statement concerning the content of operative paragraph 66 of the draft resolution on sustainable fisheries, contained in document A/59/L.23, on which action will be taken shortly.

Chile joins the consensus on the understanding that, in keeping with the rights of sovereignty and jurisdiction established by the United Nations Convention on the Law of the Sea for coastal States in their economic exclusive zones, it is incumbent on those States, in keeping with their circumstances, to consider conservation and sustainable management measures, in accordance with that Convention and international law.

Ms. Zanelli (Peru) (*spoke in Spanish*): Peru wishes to make a statement in connection with operative paragraph 66 of the draft resolution contained in document A/59/L.23. Peru joins the consensus on this draft resolution on the understanding that, in conformity with the rights of sovereignty and jurisdiction that international law recognizes for coastal States, it is up to those States to consider the related conservation and sustainable management measures in accordance with international law.

The Acting President: We have heard the last speaker in explanation of vote before the vote. The Assembly will now take a decision on draft resolution A/59/L.22 and draft resolution A/59/L.23, as orally corrected.

We turn first to draft resolution A/59/L.22, entitled "Oceans and the law of the sea".

I give the floor to the representative of the Secretariat.

Mr. Botnaru (Chief, General Assembly Affairs Branch): I would like to inform members that under the terms of operative paragraphs 6, 17, 29, 32, 73, 74, 86 and 90 of draft resolution A/59/L.22, the General Assembly would: request the Secretary-General to improve the existing Geographic Information System

and to give due publicity to it; request the Secretary-General to convene the fifteenth Meeting of States Parties to the Convention in New York from 16 to 24 June 2005 and to provide the services required; approve the convening by the Secretary-General of the fifteenth session of the Commission in New York from 4 to 22 April 2005, and of the sixteenth session of the Commission from 29 August to 16 September 2005, on the understanding that the second and third weeks of each session will be used by the Commission for technically related matters; request the Secretary-General, in cooperation with States and relevant international organization and institutions, to consider developing and making available training courses; decide to establish an Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity and request the Secretary-General to report on those issues in the context of his report on oceans and the law of the sea to the sixtieth session of the General Assembly; request the Secretary-General to convene the second International Workshop on the regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects from 13 to 15 June 2005; and to convene the sixth meeting of the Consultative Process in New York from 6 to 10 June 2005.

As concerns the conference-servicing requirements for the anticipated meetings referred to in paragraphs 17, 29, 86 and 90, it should be noted that the sessions have already been programmed in the revised draft calendar of conferences and meetings for 2005. Hence, no additional appropriation would be required.

With regard to the second International Workshop, it is understood that the Meeting of States Parties will be shortened by three days. Accordingly, the second International Workshop will meet during the first three days of the dates originally allocated to and approved for the fifteenth Meeting of States Parties, 13 to 24 June 2005. Therefore, there would be no additional conference servicing implications for holding the second International Workshop from 13 to 15 June 2005, provided that the total documentation and interpretation workload of both the Workshop and the Meeting of States Parties does not exceed the total originally allocated to and approved for the Meeting of States Parties.

As concerns paragraphs 6, 32, 73 and 74, the required substantive servicing is already included in the programme of work of subprogramme 4, "Law of the sea and ocean affairs". Accordingly, should the General Assembly adopt draft resolution A/59/L.22, no additional requirements would arise for the programme budget for the biennium 2004-2005.

The Acting President: Before proceeding to take action on the draft resolution, I should like to announce that since the introduction of the draft resolution, the following countries have become sponsors of A/59/L.22: Australia, Belize, Cameroon, Croatia, Germany, Indonesia, Jamaica, Nicaragua, Papua New Guinea, Poland, the Russian Federation, Saint Lucia, Samoa, Sierra Leone and Ukraine.

A recorded vote has been requested.

A recorded vote was taken.

In favour:

Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Bahrain, Bangladesh, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cameroon, Canada, Chile, China, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, France Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Madagascar, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Oman, Pakistan, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Samoa, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Suriname,

Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Viet Nam, Yemen, Zambia, Zimbabwe

Against:

Turkey

Abstaining:

Colombia, Venezuela (Bolivarian Republic of)

Draft resolution A/59/L.22 was adopted by 141 votes to 1, with 2 abstentions (resolution 59/24).

The Acting President: We turn next to draft resolution A/59/L.23, entitled "Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments", as orally corrected.

I give the floor to the representative of the Secretariat.

Mr. Botnaru (Chief, General Assembly Affairs Branch): I would like to inform members that under the terms of operative paragraphs 16 and 18 of draft resolution A/59/L.23, the General Assembly would: request the Secretary-General to convene, pursuant to article 36 of the Agreement, in the first part of 2006 a one-week review conference, with a view to assessing the effectiveness of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks, and to render the necessary assistance and to provide such services as may be required for the review conference; and recall paragraph 6 of its resolution 56/13, and request the Secretary-General to convene a fourth round of informal consultations of States parties to the Agreement, to consider, principally, but not limited to, issues related to the preparation for the review conference to be convened by the Secretary-General, pursuant to article 36 of the Agreement and making any appropriate recommendation to the General Assembly.

Pursuant to those requests, it is envisaged that there would be a total of 19 meetings for one week in the first half of 2006 in New York, with interpretation in all six languages. Documentation requirements would be 200 pages of pre-session, 100 pages of in-session and 100 pages of post-session documents, to be issued in all six languages.

The exact dates of the meetings will be determined in consultation between the substantive secretariat and the Department for General Assembly and Conference Management, subject to the availability of conference facilities and services allocated for the General Assembly and its working groups, and on the condition that no two working groups of the General Assembly would meet simultaneously.

The conference-servicing requirements for the anticipated four-day review conference in 2006 are estimated — at full cost and using 2004-2005 rates — at $470,600. The extent to which the Organization's capacity would need to be supplemented by temporary assistance resources can be determined only in the light of the calendar of conferences and meetings for the biennium 2006-2007. Provision for such requirements would be considered under the relevant section for conference services of the proposed programme budget for the biennium 2006-2007, not only for meetings programmed at the time of budget preparation, but also for meetings authorized subsequently, provided that the number and distribution of meetings are consistent with the pattern of meetings of past years.

As concerns operative paragraph 18, the substantive servicing associated with the convening of a fourth round of informal consultations is already included in the programme of work of subprogramme 4, Law of the sea and ocean affairs.

Accordingly, should the General Assembly adopt draft resolution A/59/L.23, no additional requirements would arise for the programme budget for the biennium 2004-2005.

The Acting President: Before we proceed to take action on draft resolution A/59/L.23, I should like to announce that, since its introduction, the following countries have joined the list of sponsors: Cameroon, Nauru, Nicaragua, Papua New Guinea, Saint Lucia, Samoa and Sierra Leone.

May I take it that the Assembly decides to adopt draft resolution A/59/L.23, as orally corrected?

Resolution A/59/L.23, as orally corrected, was adopted (resolution 59/25).

The Acting President: Before giving the floor to those representatives who wish to speak in explanation of vote or position on the resolutions just adopted, may I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Nesi (Italy): Italy voted in favour of draft resolution A/59/L.22, under agenda item 49 (a), entitled "Oceans and the law of the sea", although this year it did not sponsor the draft resolution. In this regard, Italy would like to underline its concerns with regard to paragraph 7 of the resolution. First, Italy believes that reference should be made to the United Nations Convention on the Law of the Sea — the Montego Bay Convention — in general, since article 149, in addition to article 303, refers to the protection of the underwater cultural heritage.

Moreover, Italy also believes that mention should have been made of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Protection of the Underwater Cultural Heritage. The UNESCO Convention was negotiated and adopted to clarify and strengthen the contents of the relevant United Nations Convention on the Law of the Sea provisions and to provide a specific and better regime for the protection of the underwater cultural heritage. The UNESCO Convention deserves to be mentioned in the resolution.

Mr. Dolatyar (Islamic Republic of Iran): My delegation voted in favour of draft resolution A/59/L.22. However, I would like to make it clear that my delegation dissociates itself from the seventeenth preambular paragraph of the resolution, which takes note of the report of the Secretary-General entitled "Oceans and the law of the sea" contained in document A/59/62. Paragraph 28 of that report refers to news reports that in our view fail to accurately reflect the situation in the Persian Gulf as regards the Islamic Republic of Iran. We request the Secretariat to rectify that shortcoming when preparing the next report on the subject.

The Acting President: We have heard the last speaker in explanation of vote. May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 49 and its sub-items (a) and (b)?

It was so decided.

The meeting rose at noon.

United Nations A/59/PV.57

General Assembly
Fifty-ninth session

Official Records

57th plenary meeting
Thursday, 18 November 2004, 10 a.m.
New York

President: Mr. Ping ..... (Gabon)

In the absence of the President, Mr. Effah-Apenteng (Ghana), Vice-President, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 18

Election of judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Letter from the President of the Security Council (A/59/437)

Memorandum by the Secretary-General (A/59/438)

Curricula vitae (A/59/439)

The Acting President: The General Assembly will proceed to the election of 14 permanent judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for a four-year term of office commencing on 17 November 2005.

At the election of judges in 2001, 14 permanent judges were elected for a term of four years that will expire on 16 November 2005.

In connection with the election today of the 14 permanent judges, I should like to bring the following matters to the attention of the General Assembly.

First, according to article 13 bis, paragraph 1, of the statute of the International Tribunal as amended by Security Council resolutions 1166 (1998) of 13 May 1998 and 1329 (2000) of 30 November 2000, the 14 permanent judges of the International Tribunal shall be elected by the General Assembly from a list of candidates submitted by the Security Council.

At its 5057th meeting, on 14 October 2004, the Security Council, in accordance with article 13 bis, subparagraph 1 (c) of the statute of the International Tribunal, established in resolution 1567 (2004) a list of 22 candidates, taking due account of the adequate representation of the principal legal systems of the world. The list was formally conveyed to the President of the General Assembly by a letter dated 14 October 2004 from the President of the Security Council. The letter was issued as document A/59/437.

Secondly, in accordance with article 13 bis, subparagraph 1 (d) of the statute of the International Tribunal, the Holy See, a non-Member State maintaining a permanent observer mission at United Nations Headquarters, shall participate in the election in the same manner as the States Members of the United Nations. On this occasion, I am happy to welcome here the representative of the Holy See.

Finally, I should like to draw the attention of the Assembly to the documents relating to the election.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

04-61379 (E)

The memorandum by the Secretary-General concerning the election of judges of the International Tribunal is contained in document A/59/438. The list of 22 candidates can be found in paragraph 7 of the same document.

The curricula vitae of the 22 candidates are contained in document A/59/439. In that connection, may I bring to the Assembly's attention the provision of article 13 of the statute of the International Tribunal, which reads as follows:

> "The permanent and ad litem judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers and sections of the Trial Chambers, due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law."

As representatives are aware, the election of judges will take place in accordance with the relevant provisions of article 13 bis of the statute of the International Tribunal.

In addition, given the similar nature of the election of judges of the International Court of Justice and the election of judges of the International Tribunal, it was decided at the time of the elections of judges in 1993, as well as in 1997, 1998 and 2001, to follow similar election procedures in the General Assembly. In his memorandum, the Secretary-General suggests that those precedents be applied to the election of judges of the International Tribunal.

May I take it that the Assembly agrees to that suggestion?

It was so decided.

The Acting President: In accordance with article 13 bis, subparagraph 1 (d) of the statute of the International Tribunal, the candidates who receive an absolute majority of the votes of States Members of the United Nations and of the non-member State shall be declared elected. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they vote or are allowed to vote. The electors, for that purpose, are all 191 Member States and one non-member State, the Holy See. Accordingly, 97 votes constitute an absolute majority for the purpose of electing judges of the International Tribunal.

If, in the first ballot, the number of candidates obtaining an absolute majority is less than 14, a second ballot will be held and balloting will continue in the same meeting until 14 candidates have obtained an absolute majority.

Following the practice in the election of judges of the International Court of Justice, the Secretary-General suggests in his memorandum that any second and subsequent balloting shall be unrestricted. It is further suggested that, following the practice in the election of the judges of the International Court of Justice, if more than 14 candidates obtain an absolute majority of votes in the first ballot, a second ballot will be held on all candidates and balloting will continue at the same meeting until 14 candidates, and no more, have obtained an absolute majority.

May I take it that the Assembly agrees to the procedures I have just outlined?

It was so decided.

The Acting President: I now call on the Observer of the Holy See.

Archbishop Migliore (Holy See): The Holy See has followed carefully the activities of the International Criminal Tribunal for the Former Yugoslavia, since the Tribunal is a juridical instrument of the international community and an expression of its condemnation of violations of international humanitarian law. In consideration of its specific nature and objectives, the Holy See, although invited to participate in the voting process, has decided, as on previous occasions, to abstain from voting today on the candidates for the office of judge of the International Criminal Tribunal for the Former Yugoslavia.

At the same time, my delegation takes this opportunity to state its confidence in those selected by this process and wish them well in their mission to apply the law dispassionately, thus promoting justice, reconciliation and peace among the peoples who comprise the former Yugoslavia.

The Acting President: Before we begin the voting process, I should like to remind Members that, pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the

voting except on a point of order on the actual conduct of the voting.

I should like to seek the usual cooperation of representatives during the time of the conduct of the election. Please be reminded that, during the voting process, all campaigning should cease in the General Assembly Hall. This means in particular that, once the meeting has begun, no more campaign material can be distributed inside the Hall. All representatives are also requested to remain at their seats so that the voting process can proceed in an orderly manner. I thank them for their cooperation.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only those ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 14 candidates for whom they wish to vote by placing crosses at the left of their names on the ballot papers. Ballot papers on which more than 14 names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Augustine (India), Ms. Barbosa (Mexico), Ms. Szmidt (Poland), Ms. Direito (Portugal) and Ms. Katungye (Uganda) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 10.35 a.m. and resumed at 12 noon.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	190
Number of invalid ballots:	0
Number of valid ballots:	190
Abstentions:	2
Number of Members voting:	188
Required absolute majority:	97
Number of votes obtained:	
Wolfgang Schomburg (Germany)	157
Fausto Pocar (Italy)	155
Liu Daqun (China)	151
Christine Van den Wyngaert (Belgium)	151
Theodor Meron (United States)	148
Patrick Lipton Robinson (Jamaica)	146
Iain Bonomy (United Kingdom)	144
Mohamed Shahabuddeen (Guyana)	140
O-gon Kwon (Republic of Korea)	139
Carmel Agius (Malta)	138
Kevin Horace Parker (Australia)	136
Jean-Claude Antonetti (France)	135
Alphonsus Martinus Maria Orie (Netherlands)	131
Volodymyr Vassylenko (Ukraine)	121
Bakone Melema Moloto (South Africa)	115
Mohamed Amin El-Abbassi El Mahdi (Egypt)	110
Vonimbolana Rasoazanany (Madagascar)	98
Prisca Matimba Nyambe (Zambia)	81
Sharada Prasad Prandit (Nepal)	44
Elhagi Abdulkader Emberesh (Libyan Arab Jamahiriya)	40
Yenyi Olungu (Democratic Republic of the Congo)	32
Rigoberto Espinal Irias (Honduras)	31

The Acting President: In the ballot just completed, more than the required number of candidates — in this case, 17 candidates — have obtained an absolute majority.

In accordance with the decision taken earlier, the Assembly will proceed to another unrestricted ballot to fill the 14 vacancies.

Before we begin the voting process, I should like to remind members that, pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting except on a point of order on the actual conduct of the voting.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only those ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 14 candidates for whom they wish to vote by placing crosses at the left of their names on the ballot papers. Ballot papers on which more than 14 names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Augustine (India), Ms. Barbosa (Mexico), Ms. Szmidt (Poland), Ms. Direito (Portugal) and Ms. Katungye (Uganda) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 12.20 p.m. and resumed at 1.15 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	188
Number of invalid ballots:	0
Number of valid ballots:	188
Abstentions:	2
Number of Members voting:	186
Required absolute majority:	97
Number of votes obtained:	
Wolfgang Schomburg (Germany)	159
Fausto Pocar (Italy)	151
Liu Daqun (China)	150
Christine Van den Wyngaert (Belgium)	148
Carmel Agius (Malta)	145
Patrick Lipton Robinson (Jamaica)	142
O-gon Kwon (Republic of Korea)	142
Theodor Meron (United States)	141
Mohamed Shahabuddeen (Guyana)	141
Iain Bonomy (United Kingdom)	141
Jean-Claude Antonetti (France)	135
Kevin Horace Parker (Australia)	132
Alphonsus Martinus Maria Orie (Netherlands)	132
Volodymyr Vassylenko (Ukraine	124
Bakone Melema Moloto (South Africa)	116
Mohamed Amin El-Abbassi El Mahdi (Egypt)	106
Vonimbolana Rasoazanany (Madagascar)	85
Prisca Matimba Nyambe (Zambia)	52
Elhagi Abdulkader Emberesh (Libyan Arab Jamahiriya)	29
Yenyi Olungu (Democratic Republic of the Congo)	22
Rigoberto Espinal Irias (Honduras)	22
Sharada Prasad Prandit (Nepal)	20

The Acting President: In the ballot just completed, again more than the required number of candidates — in this case, 16 candidates, have obtained an absolute majority.

In accordance with the decision taken earlier, the Assembly will proceed to another unrestricted ballot to fill the 14 vacancies.

In view of the late hour, I should like to suggest that we suspend the meeting until 3 p.m. this afternoon.

The meeting was suspended at 1.20 p.m. and resumed at 3.15 p.m.

The Acting President: The General Assembly will now proceed to the third round of unrestricted balloting to fill the 14 vacancies.

Before proceeding further, I should like to recall once again for delegations the following procedures for the election of the judges, as was stated in the Secretary-General's memorandum contained in document A/59/438.

If, in the first ballot, the number of candidates obtaining an absolute majority is less than 14, a second ballot will be held, and balloting will continue in the same meeting until 14 candidates, and no more, have obtained an absolute majority.

Following the practice in the election of judges of the International Court of Justice, any second and subsequent balloting shall be unrestricted.

If more than 14 candidates obtain an absolute majority of votes in the first ballot, a second ballot will be held on all candidates, and balloting will continue at the same meeting until 14 candidates, and no more, have obtained an absolute majority.

A number of representatives have asked for the floor.

Mr. Elmessallati (Libyan Arab Jamahiriya): Allow me, first, to thank all the representatives who have supported our candidate and to express my country's gratitude to them.

Secondly, in view of the results of the previous two rounds of balloting, I would like to announce that we wish to withdraw our candidate from this election.

Mr. Suazo (Honduras) (*spoke in Spanish*): First of all, allow me to thank all those delegations that have supported us in this electoral process, which has proved to be extremely complex in view of the circumstances established in the statute of the Tribunal.

I am grateful for the information provided on electoral procedures in the International Court of Justice, but I would note that the Court's electoral process is rather more elaborate and involves simultaneous voting in the General Assembly and the Security Council. I therefore think that the analogy made to unrestricted ballots in which a majority of votes is secured by certain States competing in the

process is not the soundest comparison. My delegation would draw attention to the need to review the electoral process set out in the Tribunal's statute.

Finally, in order to secure consensus and agreement and to ensure that Latin America and the Caribbean are represented by our candidates Guyana and Jamaica, Honduras withdraws its candidacy.

The Acting President: Members have heard the statements just made that Mr. Elhagi Abdulkader Emberesh of the Libyan Arab Jamahiriya and Mr. Rigoberto Espinal Irias of Honduras have decided to withdraw their names from the list of candidates established by the Security Council. Accordingly, those names will be struck from the ballot paper.

If delegations have no objection, we shall now proceed with the current round of balloting, taking into account the statements just made by the representatives of the Libyan Arab Jamahiriya and Honduras.

The names of the candidates just withdrawn will therefore be removed from the next ballot. For this balloting, I would like to request members to strike out the names of the candidates who have just withdrawn, namely, Mr. Elhagi Abdulkader Emberesh of the Libyan Arab Jamahiriya and Mr. Rigoberto Espinal Irias of Honduras.

We shall now continue with the balloting.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only those ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 14 candidates for whom they wish to vote by placing crosses at the left of their names on the ballot papers. Ballot papers on which more than 14 names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Augustine (India), Ms. Viejo (Mexico), Ms. Szmidt (Poland), Ms. Direito (Portugal) and Ms. Katungye (Uganda) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 3.30 p.m. and resumed at 5.05 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	191
Number of invalid ballots:	0
Number of valid ballots:	191
Abstentions:	2
Number of Members voting:	189
Required absolute majority:	97
Number of votes obtained:	
Wolfgang Schomburg (Germany)	163
Liu Daqun (China)	160
Fausto Pocar (Italy)	157
Patrick Lipton Robinson (Jamaica)	156
Theodor Meron (United States)	152
Iain Bonomy (United Kingdom)	151
Christine Van den Wyngaert (Belgium)	151
O-gon Kwon (Republic of Korea)	149
Mohamed Shahabuddeen (Guyana)	149
Carmel Agius (Malta)	148
Kevin Horace Parker (Australia)	147
Alphonsus Martinus Maria Orie (Netherlands)	141
Jean-Claude Antonetti (France)	140
Volodymyr Vassylenko (Ukraine)	123
Bakone Melema Moloto (South Africa)	112
Mohamed Amin El-Abbassi El Mahdi (Egypt)	92
Vonimbolana Rasoazanany (Madagascar)	72
Prisca Matimba Nyambe (Zambia)	44
Sharada Prasad Prandit (Nepal)	21
Yenyi Olungu (Democratic Republic of the Congo)	20

The Acting President: In the third ballot just completed, again more than the required number of candidates — in this case, 15 candidates — have obtained an absolute majority.

In accordance with the decision taken earlier, the Assembly will proceed to another unrestricted ballot to fill the 14 vacancies.

A number of representatives have asked to take the floor.

Mr. Matondo Mamuamda (Democratic Republic of the Congo) (*spoke in French*): The Democratic Republic of the Congo wishes to extend its warm thanks to the representatives of brotherly and friendly countries that voted for our national candidate. However, given the results of the first, second and third rounds of balloting, the Democratic Republic of the

Congo has decided to withdraw the candidacy of the person in question.

The Democratic Republic of the Congo wishes to assure our friends and brothers here whose nationals remain candidates for positions on the Tribunal that its withdrawal will have absolutely no impact on its arrangements or other agreements of principle relating to these circumstances.

Mr. Musambachime (Zambia): My delegation would like to thank all the member States that have supported our candidature up to this point, but our delegation feels that we should withdraw our candidate, Mrs. Nyambe. In so doing, we want to assure all those that have supported us of our gratitude and thanks.

Mr. Dhakal (Nepal): First of all, my delegation would like to express its sincere gratitude to all those delegations that have kindly extended their support to the candidate of Nepal, Mr. Mr. Sharada Prasad Pandit, Supreme Court justice of Nepal. However, in view of the trend or pattern of voting in the three rounds of balloting, my delegation would like to inform all delegations here that we wish to withdraw Mr. Pandit's candidature.

Mr. Andrianarivelo-Razafy (Madagascar) (*spoke in French*): On behalf of the delegation of Madagascar, and in particular of our candidate, I wish very warmly to thank all those delegations that have been kind enough to support Madagascar's candidate. Given the number of votes that she has received, however, we wish to inform the Assembly that we are withdrawing the candidacy of Ms. Vonimbolana Rasoazanany and wish every success to those remaining in the race.

The Acting President: Members have heard the statements that Mr. Yenyi Olungu of the Democratic Republic of the Congo, Mr. Sharada Prasad Pandit of Nepal, Ms. Vonimbolana Rasoazanany of Madagascar and Ms. Prisca Matimba Nyambe of Zambia have decided to withdraw their names from the list of candidates established by the Security Council. Accordingly, those names will be struck from the ballot paper.

In view of the fact that new ballots have to be prepared to take into account the withdrawals that have just been announced, I would suggest that the Assembly suspend its meeting at this point and that we resume our meeting in 10 minutes to proceed to the fourth round of balloting.

May I take it that the Assembly agrees to that proposal?

It was so decided.

The meeting was suspended at 5.15 p.m. and resumed at 5.30 p.m.

The Acting President: The General Assembly will proceed to the fourth round of unrestricted balloting to fill the 14 vacancies.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only those ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 14 candidates for whom they wish to vote by placing crosses at the left of their names on the ballot papers. Ballot papers on which more than 14 names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Augustine (India), Ms. Viejo (Mexico), Ms. Szmidt (Poland) and Ms. Direito (Portugal) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 5.50 p.m. and resumed at 7 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	190
Number of invalid ballots:	0
Number of valid ballots:	190
Abstentions:	2
Number of Members voting:	188
Required absolute majority:	97
Number of votes obtained:	
Patrick Lipton Robinson (Jamaica)	161
Wolfgang Schomburg (Germany)	156
Liu Daqun (China)	155
Mohamed Shahabuddeen (Guyana)	154
Christine Van den Wyngaert (Belgium)	153
Fausto Pocar (Italy)	152
Carmel Agius (Malta)	147
O-gon Kwon (Republic of Korea)	144
Theodor Meron (United States)	143
Iain Bonomy (United Kingdom)	141

Kevin Horace Parker (Australia)	138
Jean-Claude Antonetti (France)	132
Alphonsus Martinus Maria Orie (Netherlands)	130
Volodymyr Vassylenko (Ukraine)	117
Bakone Melema Moloto (South Africa)	113
Mohamed Amin El-Abbassi El Mahdi (Egypt)	91

The Acting President: In the fourth ballot just completed, again more than the required number of candidates — in this case, 15 candidates — have obtained an absolute majority.

In accordance with the decision taken earlier, the Assembly will proceed to another unrestricted ballot to fill the 14 vacancies.

In view of the late hour, I should like to suggest that we suspend the meeting until tomorrow morning at 10 a.m.

Mr. Chowdhury (Bangladesh), Vice-President, took the Chair.

The meeting was suspended at 7.05 p.m. on Thursday, 18 November and resumed at 10 a.m. on Friday, 19 November.

The Acting President: The General Assembly will now proceed to the fifth round of unrestricted balloting to fill the 14 vacancies.

Before proceeding further, I should like to recall once again for delegations the following procedures for the election of the judges, as was stated in the Secretary-General's memorandum contained in document A/59/438.

If, in the first ballot, the number of candidates obtaining an absolute majority is less than 14, a second ballot will be held, and balloting will continue in the same meeting until 14 candidates, and no more, have obtained an absolute majority.

Following the practice in the election of judges of the International Court of Justice, any second and subsequent balloting shall be unrestricted.

If more than 14 candidates obtain an absolute majority of votes in the first ballot, a second ballot will be held on all candidates, and balloting will continue at the same meeting until 14 candidates, and no more, have obtained an absolute majority.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only those ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 14 candidates for whom they wish to vote by placing crosses at the left of their names on the ballot papers. Ballot papers on which more than 14 names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Augustine (India), Ms. Viejo (Mexico), Ms. Szmidt (Poland) and Ms. Direito (Portugal) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 10.25 a.m. and resumed at 11.30 a.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	190
Number of invalid ballots:	0
Number of valid ballots:	190
Abstentions:	2
Number of Members voting:	188
Required absolute majority:	97
Number of votes obtained:	
Mohamed Shahabuddeen (Guyana)	159
Patrick Lipton Robinson (Jamaica)	154
Liu Daqun (China)	151
Wolfgang Schomburg (Germany)	150
Christine Van den Wyngaert (Belgium)	150
Fausto Pocar (Italy)	147
O-gon Kwon (Republic of Korea)	143
Theodor Meron (United States)	139
Kevin Horace Parker (Australia)	139
Carmel Agius (Malta)	138
Iain Bonomy (United Kingdom)	137
Jean-Claude Antonetti (France)	133
Bakone Melema Moloto (South Africa)	127
Alphonsus Martinus Maria Orie (Netherlands)	123
Volodymyr Vassylenko (Ukraine)	108
Mohamed Amin El-Abbassi El Mahdi (Egypt)	85

The Acting President: In the fifth ballot just completed, again more than the required number of

candidates — in this case, 15 candidates — have obtained an absolute majority.

In accordance with the decision taken earlier, the Assembly will proceed to another unrestricted ballot to fill the 14 vacancies.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only those ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 14 candidates for whom they wish to vote by placing crosses at the left of their names on the ballot papers. Ballot papers on which more than 14 names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Augustine (India), Ms. Viejo (Mexico), Ms. Szmidt (Poland) and Ms. Direito (Portugal) and acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 11.45 a.m. and resumed at 12.55 a.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	190
Number of invalid ballots:	0
Number of valid ballots:	190
Abstentions:	2
Number of Members voting:	188
Required absolute majority:	97
Number of votes obtained:	
Mohamed Shahabuddeen (Guyana)	151
Patrick Lipton Robinson (Jamaica)	146
Bakone Melema Moloto (South Africa)	138
Christine Van den Wyngaert (Belgium)	137
Liu Daqun (China)	135
Wolfgang Schomburg (Germany)	134
Fausto Pocar (Italy)	132
Carmel Agius (Malta)	129
Kevin Horace Parker (Australia)	128
Theodor Meron (United States)	127
Iain Bonomy (United Kingdom)	126
O-gon Kwon (Republic of Korea)	126
Jean-Claude Antonetti (France)	119
Alphonsus Martinus Maria Orie (Netherlands)	106
Volodymyr Vassylenko (Ukraine)	103
Mohamed Amin El-Abbassi El Mahdi (Egypt)	76

The Acting President: In the sixth ballot just completed, again more than the required number of candidates — in this case, 15 candidates — have obtained an absolute majority.

In accordance with the decision taken earlier, the Assembly will proceed to another unrestricted ballot to fill the 14 vacancies.

In view of the late hour, I should like to suggest that we suspend the meeting until this afternoon in order to continue with the balloting.

However, the Assembly will first take up agenda item 158, "Declaration by the United Nations of 8 and 9 May as days of remembrance and reconciliation", to hold the debate only. Thereafter, we will continue with the balloting for the election of the 14 judges of the International Criminal Tribunal for the Former Yugoslavia.

The meeting was suspended at 1 p.m. and resumed at 3.05 p.m.

Agenda item 113 (*continued*)

Scale of assessments for the apportionment of the expenses of the United Nations

(A/59/430/Add.2)

The Acting President: I should like to inform members that, since the issuance of documents A/59/430 and A/59/430/Add.1, Chad has made the necessary payment to reduce its arrears below the amount specified in Article 19 of the Charter.

May I take it that the General Assembly duly takes note of this information?

It was so decided.

The Acting President: The Assembly has concluded this stage of its consideration of agenda item 113.

Statement on the occasion of Africa Industrialization Day

The Acting President: I would like to remind the General Assembly that tomorrow, Saturday, 20 November 2004, is Africa Industrialization Day.

I will now deliver the message of the President of the General Assembly on the occasion of Africa Industrialization Day.

"On 20 November, the United Nations family observes Africa Industrialization Day with the collective spirit of supporting and promoting the sustainable industrial development efforts of the continent. The theme for this year's Africa Industrialization Day is 'Strengthening Productive Capacity for Poverty Reduction within the Framework of the New Partnership for Africa's Development'.

"Poverty remains a big challenge for Africa. To achieve the Millennium Development Goals, particularly the halving of income poverty, the African economies must grow. The estimates show that annual gross domestic product per capita growth rates of 2 to 6 per cent are required to meet that Goal. In that context, productivity enhancement plays a leading role.

"As a key component of productivity, successful industrialization is the motive force for applying new technologies and entrepreneurship development in Africa. It provides an enabling environment for human capital development, promotes institutional change, modernizes the export structure, as well as creates new employment opportunities.

"To alleviate poverty, African countries must introduce good industrial policies and promote domestic and foreign investment, expansion of markets, infrastructure development, employment and technological change. That goal can be pursued through regional integration and economic cooperation to gain access to international markets.

"The leading role played by the regional economic communities and the private sector in strengthening the productive capacities of the manufacturing sector is important to ensure sustained growth. With that aim, the United Nations Industrial Development Organization and the Conference of the African Ministers of Industry have jointly launched the African Productive Capacity Initiative, which was endorsed by the African Union Summit in July 2004 as the industrial component of the New Partnership for Africa's Development (NEPAD).

"The Initiative will spell out policies and measures enabling African countries to enhance their productive capacities through a value chain approach and regional integration and enter the global production network.

"We are happy to see that, recognizing the importance of industry as a strategic factor of economic development, NEPAD foresees strong industrial policies that will help African countries strengthen their productive capacities and ability to fight poverty. I am confident that Africa, with its vast human and natural resources and strong commitment to the Development Goals, will be able to achieve the objectives of NEPAD.

"In that context, I would like to urge the international community to enhance its support for the productive capacity-building efforts of African countries in order to help them achieve the Millennium Development Goals and the objectives of NEPAD.

"The strategy for strengthening the productive capacity for poverty reduction in Africa within the framework of NEPAD is undoubtedly a step in the right direction.

"This is a day to renew and reconfirm our commitment to working in global partnership and to contributing towards sustainable industrial development as an effective tool for poverty reduction in Africa."

Agenda item 158

Declaration by the United Nations of 8 and 9 May as days of remembrance and reconciliation

Draft resolution (A/59/L.28/Rev.1)

The Acting President: As was announced again at this morning's meeting, at this time the Assembly will hold only the debate on agenda item 158.

I give the floor to the representative of the Russian Federation to introduce draft resolution A/59/L.28/Rev.1.

Mr. Fedotov (Russian Federation) (*spoke in Russian*): I have the honour to speak on behalf of the delegations of Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Republic of Moldova, the Russian Federation, Tajikistan, Turkmenistan and Uzbekistan.

In 2005, the entire world will celebrate the sixtieth anniversary of the victory over fascism. The great triumph of the Second World War was the result of the joint efforts of the peoples of many countries and was the primary impulse leading the international community to establish the United Nations. Through the suffering and death of millions, the peoples of the world have come to see the irreplaceable nature of the international security system that the United Nations embodies in the maintenance of international peace.

Today, it is important to recall the lessons of the Second World War and the memory of those who died in it, and to unite the efforts of the international community, through the central role of the United Nations, to face the new threats and challenges emerging in the world. The Member States must come together to address new challenges, to achieve the pacific settlement of disputes, to deal with conflicts in the future and to strengthen the maintenance of stable and lasting peace.

In the general interests of humankind, we will need to further strengthen the role and efficiency of the United Nations as a central element in the system of collective security in order to implement the widely hailed objectives of the Charter and to save peoples from the scourge of war.

Today, the General Assembly is considering the draft resolution on the declaration by the United Nations of 8 and 9 May as days of remembrance and reconciliation, contained in document A/59/L.28/Rev.1. We believe that the General Assembly will support that important collective and universal initiative and help to mobilize efforts to maintain a secure and equitable world order in accordance with the United Nations Charter. The General Assembly will hold a special solemn meeting on 9 May 2005 in commemoration of the sacrifices made during the war, at which a declaration will be made to encourage general progress and the avoidance of new wars.

We hope that the draft resolution will be adopted without a vote. Bearing in mind the fact that certain delegations have asked for more time to work on the draft, we suggest that the adoption of a decision on it be postponed until Monday, 22 November.

Mr. Van den Berg (Netherlands): I have the honour to speak briefly on behalf of the European Union.

To the European Union member States, as is the case for many other countries around the world, the war brought unspeakable suffering. It affected the lives of millions of people in Europe and beyond. It changed the fates of individuals, families and whole nations.

Rightfully, reflection on that suffering and commemoration of the end of that period of extreme horrors are our common duty. It should inspire us — as individuals, as nations, as organizations — to do everything in our power to jointly prevent war and violence and to deal in a peaceful manner with the challenges and threats we are facing.

We should at the same time recognize that, in many respects, progress has been made since the end of the Second World War towards reconciliation, international and regional cooperation, and the promotion of democratic values, human rights and fundamental freedoms. In fact, our common United Nations and our European Union bear witness to that progress and therefore we hope that we will reach an agreement on the draft resolution just introduced by Vice-Minister Fedotov.

The Acting President: We have heard the last speaker in the debate on this item.

I would like to inform members that, at the request of the sponsors, action on draft resolution A/59/L.28/Rev.1 will be taken on Monday, 22 November 2004, as the first item.

The General Assembly has thus concluded this stage of its consideration of agenda item 158.

Agenda item 18 (*continued*)

Election of judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Letter from the President of the Security Council (A/59/437)

Memorandum by the Secretary-General (A/59/438)

Curricula vitae (A/59/439)

The Acting President: The General Assembly will now proceed to the seventh round of unrestricted balloting to fill the 14 vacancies.

Before proceeding further, I should like to recall once again for delegations the following procedures for the election of the judges, as was stated in the Secretary-General's memorandum contained in document A/59/438.

If, in the first ballot, the number of candidates obtaining an absolute majority is less than 14, a second ballot will be held, and balloting will continue in the same meeting until 14 candidates, and no more, have obtained an absolute majority.

Following the practice in the election of judges of the International Court of Justice, any second and subsequent balloting shall be unrestricted.

If more than 14 candidates obtain an absolute majority of votes in the first ballot, a second ballot will be held on all candidates, and balloting will continue at the same meeting until 14 candidates, and no more, have obtained an absolute majority.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only those ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 14 candidates for whom they wish to vote by placing crosses at the left of their names on the ballot papers. Ballot papers on which more than 14 names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Augustine (India), Ms. Viejo (Mexico), Ms. Szmidt (Poland) and Ms. Direito (Portugal) and acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 3.30 p.m. and resumed at 4.35 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	185
Number of invalid ballots:	1
Number of valid ballots:	184
Abstentions:	2
Number of Members voting:	182
Required absolute majority:	97
Number of votes obtained:	
Mohamed Shahabuddeen (Guyana)	145
Patrick Lipton Robinson (Jamaica)	143
Liu Daqun (China)	134
Christine Van den Wyngaert (Belgium)	133
Fausto Pocar (Italy)	130
Carmel Agius (Malta)	130
Wolfgang Schomburg (Germany)	129
O-gon Kwon (Republic of Korea)	127
Bakone Melema Moloto (South Africa)	125
Kevin Horace Parker (Australia)	124
Theodor Meron (United States)	123
Iain Bonomy (United Kingdom)	118
Jean-Claude Antonetti (France)	117
Alphonsus Martinus Maria Orie (Netherlands)	104
Volodymyr Vassylenko (Ukraine)	95
Mohamed Amin El-Abbassi El Mahdi (Egypt)	64

Having obtained an absolute majority, the following 14 candidates are elected members of the International Tribunal for a four-year term beginning on 17 November 2005: Mr. Carmel Agius (Malta), Mr. Jean-Claude Antonetti (France), Mr. Iain Bonomy (United Kingdom), Mr. O-gon Kwon (Republic of Korea) Mr. Liu Daqun (China), Mr. Theodor Meron (United States of America), Mr. Bakone Melema Moloto (South Africa), Mr. Alphonsus Martinus Maria Orie (Netherlands), Mr. Kevin Horace Parker (Australia), Mr. Fausto Pocar (Italy), Mr. Patrick Lipton Robinson (Jamaica), Mr. Wolfgang Schomburg (Germany), Mr. Mohamed Shahabuddeen (Guyana) and Ms. Christine Van den Wyngaert (Belgium).

I take this opportunity to extend to the judges the congratulations of the General Assembly on their election and to thank the tellers for their assistance.

We have thus concluded this stage of our consideration of agenda item 18.

The meeting rose at 4.40 p.m.